

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

**Mark McGriff, Board of Trustees Chairman, and
William Nix, Board of Trustees Secretary, on behalf of
INDIANA STATE COUNCIL OF CARPENTERS
PENSION FUND;**

**Mark McGriff, Board of Trustees Chairman, and
Greg Hauswald, Board of Trustees Secretary on behalf
INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL
OF CARPENTERS DEFINED CONTRIBUTION
PENSION TRUST FUND;**

**Mark McGriff, Board of Trustees Co-Chairman, and
William Nix, Board of Trustees Co-Chairman, on behalf
of INDIANA/KENTUCKY/OHIO REGIONAL
COUNCIL OF CARPENTERS WELFARE FUND;**

**Mark McGriff, Board of Trustees Chairman, and
Joe Coar, Board of Trustees Secretary, on behalf of
INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL
OF CARPENTERS APPRENTICESHIP AND
TRAINING FUND;**

**Douglas J. McCarron, Board of Trustees Chairman,
on behalf of UNITED BROTHERHOOD OF
CARPENTERS APPRENTICESHIP TRAINING FUND
OF NORTH AMERICA;**

**and,

INDIANA/KENTUCKY/OHIO REGIONAL
COUNCIL OF CARPENTERS,**

Plaintiffs,

vs.

**DRESSER-RAND, a Subsidiary of Siemens USA,
f/k/a DRESSER-RAND,**

Defendant.

CASE NO. 2:18-cv-85

COMPLAINT

Plaintiffs **Mark McGriff, Board of Trustees Chairman, and William Nix, Board of Trustees Secretary, on behalf of INDIANA STATE COUNCIL OF CARPENTERS PENSION FUND;** **Mark McGriff, Board of Trustees Chairman, and Greg Hauswald, Board of Trustees Secretary on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS DEFINED CONTRIBUTION PENSION TRUST FUND;** **Mark McGriff, Board of Trustees Co-Chairman, and William Nix, Board of Trustees Co-Chairman, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS WELFARE FUND;** **Mark McGriff, Board of Trustees Chairman, and Joe Coar, Board of Trustees Secretary, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS JOINT APPRENTICESHIP AND TRAINING FUND;** **Douglas J. McCarron, Board of Trustees Chairman, on behalf of UNITED BROTHERHOOD OF CARPENTERS APPRENTICESHIP TRAINING FUND OF NORTH AMERICA;** and, **INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS,** by their attorneys, **PAUL T. BERKOWITZ & ASSOCIATES, LTD.,** complain of Defendant **DRESSER-RAND, a Subsidiary of Siemens USA, f/k/a DRESSER-RAND** stating as follows:

COUNT I

1. This action arises under and jurisdiction resides with this Court pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1001, et seq., ("ERISA") and more particularly under Sections 502 and 515 of ERISA, 29 U.S.C. §1132 and §1145, and is brought by Plaintiffs **Mark McGriff, Board of Trustees Chairman, and William**

Nix, Board of Trustees Secretary, on behalf of INDIANA STATE COUNCIL OF CARPENTERS PENSION FUND; Mark McGriff, Board of Trustees Chairman, and Greg Hauswald, Board of Trustees Secretary on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS DEFINED CONTRIBUTION PENSION TRUST FUND; Mark McGriff, Board of Trustees Co-Chairman, and William Nix, Board of Trustees Co-Chairman, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS WELFARE FUND; Mark McGriff, Board of Trustees Chairman, and Joe Coar, Board of Trustees Secretary, on behalf of INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS JOINT APPRENTICESHIP AND TRAINING FUND; Douglas J. McCarron, Board of Trustees Chairman, on behalf of UNITED BROTHERHOOD OF CARPENTERS APPRENTICESHIP TRAINING FUND OF NORTH AMERICA (collectively referred to as the “Trust Funds”) in order to judicially enforce the obligations owed, and breached, by Defendant **DRESSER-RAND, a Subsidiary of Siemens USA, f/k/a DRESSER-RAND** (“Dresser-Rand”) to the Plaintiffs Trust Funds. More specifically, Plaintiffs Trust Funds seek an order compelling Defendant Dresser-Rand to pay the delinquent contributions owed for the period of January 1, 2015 through February 28, 2018 to the Plaintiffs Trust Funds. Plaintiffs Trust Funds also seek an order directing Dresser-Rand to pay any liquidated damages and interest on the delinquent contributions, plus attorneys' fees and costs incurred by Plaintiffs as a result of being forced to bring this action.

2. Plaintiffs Trust Funds are employee benefit funds within the meaning of and subject to ERISA. The Plaintiffs Trust Funds provide benefits for employees working within this judicial district and are, themselves, administered in this judicial district, with the exception of UBCATF.

3. At all times materials herein, Defendant Dresser-Rand has employed employees within this judicial district.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) and 28 U.S.C. § 1391(b)(2).

5. At all times material herein, Defendant Dresser-Rand has been a signatory to a collective bargaining agreement with the Indiana/Kentucky/Ohio Regional Council of Carpenters ("Union") and, as such, is bound by the Plaintiffs Trust Funds' Agreements and Declarations of Trust ("Trust Agreements").

6. Defendant Dresser-Rand breached the Agreements identified in Paragraph 4 of this Count and is in violation of Sections 502 and 515 of ERISA (and 29 U.S.C. § 185) by failing to pay the delinquent contributions and contractually required interest and liquidated damages owed for the period of January 1, 2015 through February 28, 2018 to the Plaintiffs Trust Funds.

7. Despite Plaintiffs Trust Funds' requests, Defendant Dresser-Rand has failed to pay the contractually and statutorily required monies.

8. Plaintiffs Trust Funds have satisfied all statutory prerequisites as set forth in 29 U.S.C. §1132 (h).

WHEREFORE, Plaintiffs Trust Funds pray this Court order that:

1. Defendant Dresser-Rand pay the delinquent contributions, interest and liquidated damages, owed to Plaintiffs Trust Funds for the period of January 1, 2015 through February 28, 2018;

2. Defendant Dresser-Rand pay statutory post-judgment interest on all principal contributions found due by this Order;

3. Defendant Dresser-Rand pay Plaintiffs Trust Funds' attorneys' fees and costs incurred herein; and,

4. Such other and further relief that this Court may find just and proper be entered against Defendant Dresser-Rand.

COUNT II

1. Plaintiff **INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS** ("Union") is a labor organization whose duly authorized officers or agents are engaged in representing or acting for employee members within this judicial district.

2. At all times material herein, Defendant **DRESSER-RAND, a Subsidiary of Siemens USA, f/k/a DRESSER-RAND** ("Dresser-Rand") has been engaged in an industry affecting interstate commerce and employs individuals working within this judicial district.

3. This Court has jurisdiction of this action pursuant to Section 301 of the Labor-Management Relations Act, 1947, as amended, 29 U.S.C. §185 ("LMRA").

4. Jurisdiction resides in this Judicial District because the Union maintains its principal Office within this Judicial District.

5. Venue is appropriate in this Judicial District because Defendant resides within this Judicial District and a substantial part of the events or omissions giving rise to the claim occurred within this Judicial District.

6. At all times material herein, Defendant Dresser-Rand has been signatory to a collective bargaining agreement with the Union. Included among the contractual obligations between the parties is the requirement that Dresser-Rand make payroll deductions to the Union.

7. Defendant Dresser-Rand breached its contractual obligations to the Union by failing

to pay the delinquent monies, interest and liquidated damages, for the period of January 1, 2015 through February 28, 2018, owed thereon.

8. Despite the Union's request, Defendant Dresser-Rand has failed to pay the monies identified in this Count.

WHEREFORE, Plaintiff Union prays this Court order that:

1. Defendant Dresser-Rand pay the delinquent deductions, interest and liquidated damages owed for the period of January 1, 2015 through February 28, 2018 to the Plaintiff Union;

2. Defendant Dresser-Rand pay statutory post-judgment interest on all principal deductions found due by this Order;

3. Defendant Dresser-Rand pay Plaintiff Union's attorneys' fees and costs incurred herein; and,

4. Such other and further relief that this Court may find just and proper be entered against Defendant Dresser-Rand.

Respectfully submitted,

PAUL T. BERKOWITZ & ASSOCIATES, LTD.

By /s/ Paul T. Berkowitz
PLAINTIFFS' ATTORNEYS

PAUL T. BERKOWITZ & ASSOCIATES, LTD.
123 West Madison Street, Suite 600
Chicago, Illinois 60602
P: (312) 419-0001
F: (312) 419-0002
E: paul@ptblaw.com
Attorney ID #19025-49